

§ 48.6427-2

26 CFR Ch. I (4-1-11 Edition)

(f) *Illustrations.* The application of this section may be illustrated by the following example:

Example. Special motor fuel was sold for use as fuel in a highway vehicle that was registered for highway use. Tax was imposed on the sale at the rate of 9 cents a gallon under section 4041(a)(2). The special motor fuel was eventually used by the purchaser in a qualified business use. The credit or payment of tax is to be computed as follows:

	Cents per gal- lon
Rate at which tax was paid	9
Less: Rate at which tax would have been imposed on a qualified business use under sec. 4041(b).	0
Net credit or payment under sec. 6427(a)	9

[T.D. 8043, 50 FR 32046, Aug. 8, 1985, as amended by T.D. 8152, 52 FR 31621, Aug. 21, 1987]

§ 48.6427-2 Credits or payments to purchaser of diesel or special motor fuels used in intercity, local, or school buses.

(a) *In general.* (1) If tax has been paid under section 4041(a)(1) on the sale of diesel fuel for use as a fuel in a diesel-powered highway vehicle or under section 4041(a)(2) on the sale of special motor fuel for use as a fuel in a motor vehicle or a motorboat and the fuel is used by the purchaser in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in a school bus in the transportation of students and employees of schools, a credit (under the circumstances described in paragraph (b) of this section) or a payment (under the circumstances described in paragraph (c) of this section) in respect of the fuel so used shall be allowed or made to the purchaser of the fuel. The credit or payment under this section shall be an amount equal to the product of the number of gallons of fuel so used multiplied by the rate at which tax was imposed on the fuel by section 4041(a)(1) or section 4041(a)(2), reduced as limited by section 6427(b)(2). No interest shall be paid on any payment allowed under paragraph (c) of this section. However, interest may be paid on any overpayment (as defined by section 6401) arising from a credit. See section 34(a), relating to credit for certain uses

of gasoline and special fuels, (and lubricating oil prior to January 7, 1983). See section 6611, relating to interest on overpayments. See § 48.6427-3 for the time within which a claim for credit or payment must be made under this section.

(2) The terms “diesel fuel” and “special motor fuel” have the same meaning as in section 4041 and the regulations thereunder. The term “fuel” means diesel fuel and special motor fuel. See § 48.6421-4 for the meaning of “calendar quarter” and “taxable year.”

(b) *Allowance of income tax credit.* Except as provided in paragraph (c) of this section, repayment under this section of the tax paid under section 4041(a)(1) or section 4041(a)(2) on diesel or special motor fuel used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations by a person subject to income tax may be obtained only by claiming a credit for the amount of this tax against the tax imposed by subtitle A of the Code. The amount of the credit shall be an amount equal to the payment which would be made under section 6427 with respect to fuel used during the taxable year for passenger land transportation or school bus operations if section 6427(i) and paragraph (c) of this section did not apply. See section 34(a)(3).

(c) *Allowance of payment.* Payments in respect of diesel or special motor fuel upon which tax was paid under section 4041(a)(1) or section 4041(a)(2) that is used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations shall be made only to—

(1) The United States or any agency or instrumentality thereof, a State, a political subdivision of a State, or an agency or instrumentality of one or more States or political subdivisions of a State, or the District of Columbia,

(2) An organization which is exempt from tax under section 501(a) and is not required to make a return of the income tax imposed under subtitle A for its taxable year, or

(3) A person described in section 6427(g)(2) to whom \$1,000 or more is payable (without regard to paragraph

(b) of this section) under this section with respect to fuel used during any of the first three quarters of the person's taxable year.

(d) *Supporting evidence required.* Each claim under this section for credit or payment must include a statement showing—

(1) The total number of gallons of fuel purchased and used in each intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public multiplied by the rate at which tax was imposed on the fuel by section 4041(a)(1) or section 4041(a)(2). See, however, section 6427(b)(2) with respect to the limitation on the amount of credit for buses other than qualified local buses.

(2) The total number of gallons of fuel purchased and used in each bus while engaged in school bus transportation operations multiplied by the rate at which tax was imposed on the fuel by subsection (a)(1) or (a)(2) of section 4041. See, however, section 6427(b)(2) with respect to the limitation on the amount of credit for buses other than qualified local buses.

(3) If a claim on Form 843 is being filed, the internal revenue district or service center with which the purchaser last filed an income tax return (if any).

[T.D. 8043, 50 FR 32047, Aug. 8, 1985]

§ 48.6427-3 Time for filing claim for credit or payment.

(a) *In general.* A claim for credit or payment described in § 48.6427-1 with respect to fuel used for nontaxable, farming, or other purposes taxable at a lower rate or in § 48.6427-2 with respect to fuel used either in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations shall cover only fuel used during the taxable year, or when paragraph (b)(2) of this section applies, used during the calendar quarter. Therefore, fuel on hand at the end of a taxable year, or, if applicable, a calendar quarter, such as fuel in supply tanks of vehicles or in storage tanks or drums, must be excluded from a claim filed for the taxable year or calendar quarter,

as the case may be. However, this fuel may be included in a claim filed for a later taxable year or a later calendar quarter if it is used during that later year or quarter for nontaxable or farming purposes, or in an intercity or local bus while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations. Fuel used during the taxable year or calendar quarter may be covered by the claim for that period although the fuel has not been paid for at the time the claim is filed. The purposes of applying this section, a governmental unit or exempt organization described in § 48.6427-1(c) or § 48.6427-2(c) is considered to have as its taxable year the calendar year or fiscal year on the basis of which it regularly keeps its books; see § 48.6421-4.

(b) *Time for filing—*(1) *Annual claims.*

(i) A claim under this section for credit or payment with respect to fuel used during a taxable year shall not be allowed unless it is filed no later than the time prescribed by section 6511 and the regulations thereunder for filing a claim for credit or refund of income tax for the particular taxable year.

(ii) A claim for payment of a governmental unit or exempt organization described in § 48.6427-1(c) or unit or exempt organization described in § 48.6427-2(c), must be filed no later than 3 years following the close of its taxable year. See § 48.6421-4.

(2) *Quarterly claims.* A claim for payment of \$1,000 or more in respect to fuel used during any of the first three quarters of the taxable year, filed either under § 48.6427-1(c)(3) in respect of fuel used for nontaxable purposes or for purposes taxable at a lower rate, or under § 48.6427-2(c)(3) in respect of fuel used while engaged in furnishing (for compensation) passenger land transportation available to the general public or in school bus transportation operations, shall not be allowed unless the claim is filed on or before the last day of the first calendar quarter following the calendar quarter for which the claim is filed. No quarterly claim may be filed for the last calendar quarter of the taxable year. Amounts for which payment is disallowed under this paragraph (b)(2) merely because the